IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.684 OF 1998

Dr. N.S. Gavaskar and others .. Petitioners
v/s.
The Municipal Corporation of Greater Mumbai
and another .. Respondents

Mr. A.A. Joshi for the petitioners.
Ms. P.A. Purandare for the respondent Nos.1 and 2.

CORAM : R.M. LODHA &
SMT.NISHITA MHATRE , JJ.

DATED : 11TH JANUARY, 2007

P.C.

The petitioners who are trustees of Sanmitra Mandal Vidyamandir, have filed this writ petition, interalia, challenging the notice dated 21.2.1998 regarding cutting of water supply in the premises of the trust.

2. The petitioners have averred that the trust runs the educational institution from pre-primary to secondary at the premises situate at Gogate Wadi, Goregaon (East). The school building was constructed in the year 1966 and since then, water is supplied through the meter provided by the Municipal Corporation on rental basis. The petitioners claimed to have paying the meter and water charges regularly. They received supplementary bills dated 21.3.1996 and 28.10.1996 amounting to Rs.77,918/- for the period from 1983 to 1997. The petitioners alleged that

the supplementary bills were not based on the actual consumption. On 9th September, 1997, the Assistant Engineer (W.W.) P/South Ward informed the trust that due to non-availability of 40 M.M. Dia Municipal water meters in stock, the defective existing water meter could not be replaced and requested the petitioners to provide new 40 M.M. Dia private water meter of approved make and duly tested in the Municipal Testing shop so as to enable the Corporation to issue water charges bills on actual recorded reliable consumption by the new meter henceforth. Subsequent thereto, the defective meter was replaced. The trust agreed that based on the current consumption of water issue regarding the actual consumption of the water for the period from 1983 to 1987 shall be solved. However, the Assessment and Collection Department of the Corporation on 21.2.1998 asked the trust to deposit a sum of Rs.77,918/- within three days of the service of the notice, failing which the water supply would be disconnected, necessitating the present writ petition.

3. The counsel for the Corporation could not show us any basis for the amount arrived at in the supplementary bills dated 21.3.1996 and 28.10.1996. In the circumstances, the petitioners' stance that they are ready and willing to pay the entire charges for the period from 1983 to 1997 based on the average actual consumption after the installation of the new meter seems to be fair and reasonable. In the circumstances, the notice dated 21.2.1998 directing the Trust to pay Rs.77,918/- without any basis, within three days seems to us to be unjustified and consequently, that renders the notice dated 21.2.1998 illegal.

4. We, accordingly, dispose of the writ petition by the following order:-

(i) The notice dated 21.2.1998 is quashed and set aside.

(ii) The respondents are directed to rework at the consumption of water by the trust for the period from 1983 to 1997 on the average monthly consumption of six months from the date new meter was installed and issue supplementary bill to the petitioners on that basis.

(iii) Sanmitra Mandal (Public Trust), represented by the petitioners is directed to pay the amount under the supplementary bill that may be issued within the time mentioned in the supplementary bill.

No costs.

(R.M.LODHA, J.)

(SMT. NISHITA MHATRE, J.)